

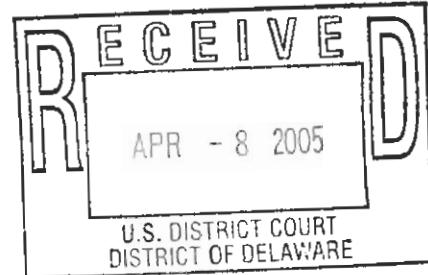
HPS-52 (March, 2005)

March 11, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
C.A. No. 04-4778

PEDRO A. RODRIGUEZ,
Appellant
v.

FIRST CORRECTIONAL MEDICAL, et al.
(D. DEL. CIV. NO. 04-CV-00958)



Present: SCIRICA, CHIEF JUDGE, WEIS AND GARTH, CIRCUIT JUDGES

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) By the Clerk, the within appeal for possible dismissal under 28 U.S.C. 1915(e)(2)(B) in the above-captioned case.

Respectfully,
Clerk

MMW/JLR/je/slc

ORDER

This appeal is dismissed for lack of appellate jurisdiction because Appellant seeks to appeal a non-final order. See 28 U.S.C. § 1291 (stating that the courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts). An order which dismisses a complaint without prejudice is neither final nor appealable because the plaintiff may correct the deficiency without affecting the cause of action. Borelli v. City of Reading, 532 F.2d 950, 951-52 (3d Cir. 1976). Appellant may refile his complaint with the required forms in District Court and pursue his claims.

A True Copy:

By the Court,

Marcia M. Waldron
Marcia M. Waldron,
Clerk

/s/ Joseph F. Weis, Jr.
Circuit Judge

Dated: April 6, 2005
SLC/cc: Mr. Pedro A. Rodriguez, SBI #245216